

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RICHARD JOHN FLORANCE, JR.,
Plaintiff,

vs.

DON BUSH, et al.,
Defendants.

No. 3:09-CV-1470-B-BH

ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the undersigned District Judge is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

For the reasons stated in the Findings, Conclusions, and Recommendation, the *United States' Motion to Dismiss, or alternatively, For a More Definite Statement*, filed January 20, 2010, (doc. 53) and *Defendants', The State of Texas and the Fifth Court of Appeals, Motion to Dismiss Pursuant to Rule 12*, filed January 28, 2010, (doc. 55) are **GRANTED** to the extent they seek dismissal under Fed. R. Civ. P. 12(b)(1).

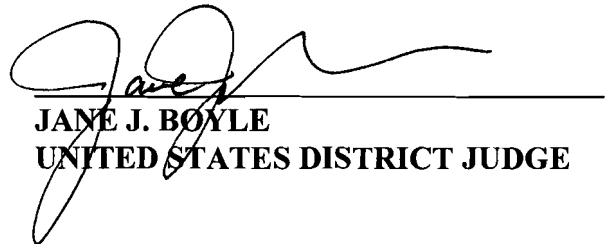
Defendants Anthony G. Brocato, Jr. and State of Texas' Motion to Dismiss for Insufficient Service of Process and Failure to State a Claim, filed February 12, 2010, (doc. 70) is **GRANTED** under Rule 12(b)(1) with respect to official capacity claims asserted against Brocato and under Rule 12(b)(6) with respect to individual capacity claims asserted against him.

Putative Defendant J.P. Court Precinct 3, Place 1 of Dallas County, Texas' Motion to Dismiss, filed January 20, 2010, (doc. 54); *Defendant City of Dallas's Motion to Dismiss*, filed

February 4, 2010, (doc. 64); *Defendants Taylor, Miller, Kim, and Smith's Consolidated Rule 12 Motion to Dismiss*, filed February 17, 2010, (doc. 71); *Defendants Davis and Mathews, Stein, Shiels, Pearce, Knott, Eden & Davis' Consolidated Rule 12 Motion to Dismiss*, filed February 18, 2010, (doc. 72); and *Defendants City of Plano, Plano Municipal Court, Judge Don Stevenson, Rodney D. Patten and Paige Mims' Consolidated Rule 12 Motion to Dismiss*, filed February 19, 2010, (doc. 73) are **GRANTED** under Rule 12(b)(6).

RJF's First and Standing Motion to Strike per FRCP 11(a) – DOJ and the Individual Defendants, filed February 24, 2010, (doc. 76); *RJF's First and Standing Motion to Strike per FRCP 11(a) – DOJ*, filed February 24, 2010, (doc. 77); *RJF's Second and Standing Motion to Strike per FRCP 11(a) – State AG's Office and the "Individual" Defendants*, filed March 12, 2010, (doc. 84); and *RJF's Second and Standing Motion to Strike per FRCP 11(a) – State AG's Office*, filed March 19, 2010, (doc. 91) are **DENIED**.

SIGNED this 8th day of July, 2010.


JANE J. BOYLE
UNITED STATES DISTRICT JUDGE